

POTENTIAL TELECOMMUNICATIONS
MODERNIZATION
STATUTORY/REGULATORY REFORMS

Common Carrier Staff

MODERNIZATION CHARGE

It is the intent of the legislature that the Regulatory Commission of Alaska recommend adoption of updated telecommunication modernization regulatory standards in AS 42.05, the Alaska Public Utilities Regulatory Act, and deliver recommendations on how best to modernize outdated statutes to the House and Senate Finance Committees and to the Legislative Finance Division by February 19, 2019.

POSSIBLE RESPONSES

MODERNIZE AS 42.05.840

AS 42.05.840 could be revised variously:

- To explicitly provide broadband support;
- To explicitly limit to voice support and remove ambiguity as to what the AUSF can be put toward by eliminating the dangling “universal service” phrasing.
- Consider whether the Fund should continue to be Commission discretionary.

REVISE AUSF CONTRIBUTION METHODOLOGY

- Line/connections (Utah approach);
or
- A hybrid – line/connections for residential and % gross revenue for business/commercial lines (Nebraska approach) see:
<https://prodnet.www.neca.org/publicationsdocs/wwpdf/103117nepsc.pdf>

BIFURCATE AUSF: VOICE NETWORK SUPPORT

Depending on approach taken in AS 42.05.840 (to include explicit broadband component to AUSF), consider statutorily bifurcating AUSF funding components:

- Voice Network Support component
 - All telecommunications customers would contribute.
 - Support only available to local exchange carriers that can demonstrate that whole network revenue (intrastate, interstate, and nonregulated), with maximum allowable federal rates charged, does not permit opportunity for reasonable rate of return given costs for network elements necessary to provide quality voice service to all customers in applicable service area.

BIFURCATE AUSF: BROADBAND NETWORK SUPPORT MODELS

- Grant model – in which case a yearly grant budget would be set and the Fund contribution levels backfilled. Amounts not awarded in a fiscal year would be carried forward. Would have a partially independent board, made up of both Commissioners, Industry and Elected Officials. Could impose matching requirements (50/50, 70/30). Adopt a series of grant assessment criteria and service obligations, including obligation for any connections made to be subject to AUSF contribution assessments. This approach would be amenable to Technological Neutrality allowing non-traditional non-wireline ISPs to apply such as satellite Internet and Fixed Wireless providers.
 - For an example of a working state broadband grant program, see Colorado's, <http://broadband.co.gov/programs/broadband-development/>
- Per Qualifying Carrier Model - carry forward of the ENS model based on per rural carrier predetermined annual support approved in R-18-001. This would ostensibly foreclose opportunities for non-traditional non-wireline ISPs.
- Direct Customer Support Model - broadband customers served in “rural” census blocks using assessment of competitive alternatives as a proxy for market condition and where number of alternative providers listed in Form 477 data would determine whether area is rural. This approach would be amenable to Technological Neutrality so that customers of any ISP providing rural broadband service would be eligible for support.

BIFURCATE AUSF: BROADBAND NETWORK SUPPORT, FUNDING

Traditional Telecom funding source and exemption: Only telecommunications customers residing in (wireless) or taking service (wireline) in census blocks with greater than 80% (or some other reasonable measure) of locations “served” with 10/1 broadband service must contribute.

- Unserved locations/census blocks below threshold are explicitly exempted and carriers would be required to identify unserved census blocks and exempted lines/revenue to AUSAC on a quarterly basis to the extent they differ from the total lines/revenue reported for the voice fund.

Possible Sources of Funding for State Broadband Fund that avoid accessing gross revenue or per line AUSF Surcharge on traditional telecom customers:

- Petition the FCC (similar to NY) to combine AUSF broadband fund with the Alaska Plan Unserved Areas Fund (~\$225 Million) and coordinate funding under state control and magnify the impact, under the theory that state regulators have increased insight into local markets and the relative need for build-out stimulus.
- Require a recurring per linear foot or acre broadband fee for all telecommunications plant traversing state of Alaska rights of way or easements, including fiber, microwave, earth stations, wireless tower; and empower ADNR and ADOT to collect and remit to Broadband Fund.
- Require per broadband connection surcharge for any customer taking service from any carrier:
 - Using facilities or plant that benefit from state land easements or rights of way.
 - Receiving state funding.

STATUTORY MANDATE FOR
STATE LIFELINE SUPPORT
COMPONENT TO AUSF

- Include monthly low income wireless or wireline broadband support.
- Include monthly low income wireline or wireless voice support component.
- Low income individuals could qualify for both, or be explicitly limited to one or the other.
- Could empower Commission to set service quality standards for lifeline carriers.

STATUTORY CHANGE TO DEFINITION OF “PUBLIC UTILITY”

- Include both wireline and wireless broadband service providers.
- Have explicit statutory exemption from economic/rate regulation and from all other sections of 42.05 except:
 - Non-discrimination rules
 - AS 42.05.261 discontinuance of service without migration
 - Interconnection jurisdiction
 - Line extension policy
 - Special contract rules – file special contracts to enforce non-discrimination and interconnection rules.
 - Facilities mapping obligations
- Consider propriety of subjecting to mandatory AUSF contribution, and insert where applicable an AUSF contribution requirement for receipt of state broadband funding of any kind. See *slides 7-8*.
- Certification either statewide or in discrete census blocks, at carriers' discretion (similar to IXCs that can serve either statewide or in a smaller designated area)

PUBLIC UTILITY EXPANSION: MUNICIPAL AND SMALL COOPERATIVE BROADBAND PROGRAM

- Would enable small entities that seek broadband access for discrete communities and neighborhoods that have had requests for broadband service extensions denied from established carriers/ISPs to receive provisional certificate/designation as public utility in discrete census block areas potentially enabling them to:
 - Build network using municipal and state rights of way;
 - Apply for and receive RUS and other low interest financing;
 - Receive ETC designation to participate in unserved areas fund;
 - Participate in any state broadband fund program discussed above; and,
 - Right to interconnect with backbone carriers.
- Could create a state entity similar to Alaska Energy Authority (AEA) to provide state loans, technical assistance and contractor contacts and other expertise to small broadband cooperatives and municipalities that otherwise would not be able to meet applicable fitness standards.

ALTERNATIVE TO PUBLIC
UTILITY DEFINITION
EXPANSION – CONTRACT
AND PERMIT CONDITIONS

Alternative – could ensure similar broadband consumer protections without certification by making the broadband service subject to the bulleted protections on slide 10 to the extent the service is propagated over facilities located either on state lands, easements or public rights of way. Protections could be inserted as conditions on state land agreements and permits.

BROADBAND MAPPING TASKFORCE

- Disconnect exists between the mapping resources needed to identify gaps in broadband service availability and the business case for requiring broadband providers to collect and report sufficiently granular mapping data to meet policymakers' needs.
 - The Commission currently has no explicit statutory authority to require maps or service data for any broadband provider, and is reliant on voluntary participation.
- The State of Georgia has recently passed legislation to create a government/industry partnership to create underserved broadband mapping and databases, spearheaded by the Georgia Technology Authority, which oversees the provision of broadband service to government, along with the Georgia DOT and other state agencies. Industry that participates is induced by receiving grant funding priority along with data for costs analysis and investment decisions. See <http://www.legis.ga.gov/Legislation/20172018/179105.pdf>
- Could include a “whole network” mapping requirement, with annual renewal, for all broadband capable facilities for any entity that either receives funds from AUSF, or uses/benefits from access to public lands, easements, rights of way.

ELIMINATE JURISDICTION OVER CABLE TV

- Delete right to petition Commission for economic regulation over by Cable Subscribers pursuant to AS 42.05.711(k) given the FCC's recent decision to create a rebuttable presumption of cable market competition nationwide that effectively preempts state/local economic regulation. Cable Effective Competition Order: <https://docs.fcc.gov/public/attachments/FCC-15-62A1.pdf>;
- Consider whether to adopt a registration program as opposed to a certificate regime for Cable TV providers.